

## An Overview of Colorado Air Regulations for Land Development

Under Colorado air quality regulations, land development refers to all land clearing activities, including but not limited to land preparation such as excavating or grading, for residential, commercial, or industrial development, or oil and gas exploration and production. Land development activities release fugitive dust, a pollutant regulated by the Air Pollution Control Division (Division) at the Colorado Department of Public Health and Environment. This document provides an overview of the air pollution reporting and permitting requirements that may apply to land development activities.

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### ➤ Exemptions for Small Land Development Activities

Small land development activities are not subject to the same reporting and permitting requirements as large land development activities. Specifically, land development activities that are *less than 25 contiguous acres and less than 6 months in duration* do not need to report air emissions to the Division. For these projects, operators must use appropriate control measures to minimize the release of fugitive dust from the site.

### ➤ Reporting and Permitting Requirements for Large Land Development Activities

Land development projects that are greater or equal to 25 continuous acres and/or 6 months in duration typically require the submission of an *Air Pollutant Emission Notice (APEN)* and an air permit (in some cases APENs and air permits are not required due to estimated air emissions below reporting thresholds). The APEN and air permitting process are described below.

#### Submitting an APEN

The APEN form titled “Air Pollutant Emission Notice – and – Application for Construction Permit” is available through the Division and downloadable at <http://www.cdphe.state.co.us/ap/downloadforms.html>. The APEN form is used to record general project information including the project description, location, size, and duration of the land development project. In addition, the APEN form includes detailed information on the *Fugitive Dust Control Plan (FDCP)*. The FDCP addresses how dust will be kept to a minimum at the project site. Control measures listed in the plan should be specific to the land development site. Fugitive dust control techniques commonly included in the plan are shown in Table 1. A permit, if required, will specify the type of dust control measures that were included on the FDCP. (You can submit a separate FDCP specific to the site in addition to the APEN but if you do not, the fugitive dust control measures listed on the APEN will be used on the air permit.) It is important to note that even if a permit is not required, fugitive dust control measures in the FDCP must be followed at the site.

**Table 1**

<b>Control Options for Unpaved Roadways</b>	
Watering	Use of chemical stabilizer
Paving	Controlling vehicle speed
Graveling	
<b>Control Options for Mud and Dirt Carry-Out Onto Paved Surfaces</b>	
Gravel entry ways	Washing vehicle wheels
Covering the load	Not overfilling trucks
<b>Control Options for Disturbed Areas</b>	
Watering	Application of a chemical stabilizer
Revegetation	Controlling vehicle speed
Compaction	Furrowing the soil
Wind Breaks	Minimizing the areas of disturbance
	Synthetic or Natural Cover for Slopes

A land development APEN can be submitted by a property owner, a site contractor, or a management company involved with the project. The party that submits the APEN will be responsible for paying the associated APEN and permitting fees and ensuring compliance with the Fugitive Dust Control Plan and air permit (if applicable). The owner and operator are responsible for the submittal of an APEN and obtaining the permit.

### **Land Development Process Equipment**

Sometimes process equipment such as generators or crushers is used at a land development site. Process equipment is treated separately from the land development operations. Process equipment may be designated as portable or fixed, and must be reported on a separate APEN form. For crushers and screens, use the “**General APEN**” form. For generators, use the “**Reciprocating Internal Combustion Engines**” APEN form. These forms require general information about the equipment such as the type of equipment, make, model, and serial number, hours of operation, and quantity of material processed through the equipment. For more information on the filing process for land development equipment, refer to the guidance document, “An Overview of Colorado Air Regulations for Surface Mining Operations, Concrete Batch Plants, and Hot Mix Asphalt Plants” located at [www.cdphe.state.co.us/ap/stationarylibrary.html](http://www.cdphe.state.co.us/ap/stationarylibrary.html). Refer to the section on surface mining process equipment.

Portable equipment can be moved from site to site. A “**Notice of Relocation**” form must be submitted to the Division at least 10 days prior to the relocation of permitted portable equipment. You should maintain records on the location of each piece of equipment at your home-base office.

## **Allow Enough Time for the Processing of Your APEN!**

The Division will use the information provided on the APEN to determine whether the land development project requires an air permit. If an air permit is required, the APEN will become part of the permit application package. In accordance with Colorado air regulations, the Division has up to **90 days** to issue a permit once a complete APEN is received. If an incomplete APEN is received, the Division may request additional information. The 90-day permit-processing clock will start once the additional information is received. If a permit is required for your land development project, site operations cannot commence until the air permit has been issued. *You must plan ahead!*

## **Obtaining an Air Permit**

Land development projects that are greater or equal to 25 contiguous acres and/or 6 months in duration typically require an air permit. The land development permitting process has been streamlined to generate a final “temporary” land development air permit in one step. The temporary air permit is applicable through the project’s “Commence” and “Stop” dates listed on the APEN. The temporary permit expires at the requested “Stop” date. As a rule of thumb, land development activities may be considered complete when all disturbed areas are stabilized from dust emissions. If an extension or modification to the air permit is required, contact the Division to discuss the change and determine whether a new APEN is required.

Temporary land development permits are typically issued for a period of up to five years. Based on the information provided on the APEN, the permit may cover a single land development activity or a series of activities (or project phases) over a defined period of time.

### **➤ Types of Air Permits**

Currently the Air Pollution Control Division offers two types of permits for land development projects. Both types of air permits require you to complete the APEN form titled, “Land Development Air Pollutant Emission Notice – and – Application for Construction Permit”. The APEN form allows you to choose (by marking the appropriate check box) which type of air permit you will obtain for your land development activities (if a permit is required). The two types of permits are outlined below

**Construction Permit:** A Construction Permit requires analysis from one of the Division’s engineers.

This analysis will be conducted to calculate fugitive emissions based upon the size of the project, duration of the project, and specific control measures taken to control emissions. Construction permits can be more costly but are much more specific to your land development project. The Construction Permit allows flexibility in the control measures you will use at your site. You must have a Construction Permit on-site in order to begin your project; therefore, you must plan ahead and file for an air permit early.

**General Permit:** A General Permit requires no analysis from an engineer and is, therefore, less costly.

The General Permit, however, does not give you any flexibility in control measures you can use at your site. In order to apply for the General Permit, simply mark the checkbox on the top of the APEN form adjacent to “Request Coverage Under General Permit”. Note: if you are requesting coverage under the General Permit, you do not need to submit pages 2 & 3 of the APEN form.

The General Permit includes several control measures that must be followed. If you agree to follow the control measures written into the General Permit, and your total project size is less than 1850 acres, you are eligible to apply for a General Permit. Note: ***All projects greater than 1850 acres in size will require a Construction Permit and a 30-day public comment period.*** An advantage to applying for a General Permit is that when the Division receives your APEN, your project will be covered under the General Permit and you do not need to wait for a response from the Air Pollution Control Division in order to begin your project. A copy of the General Permit is available at <http://www.cdphe.state.co.us/ap/down/generalpermGP03.pdf>.

***Please be aware that the General Permit is optional. Your business can elect to have your application processed as a Construction Permit if you choose that option.***

## ➤ **WHAT FEES APPLY?**

**APEN Filing Fee:** Each APEN must be submitted with a \$152.90 APEN filing fee. This fee is required for both Construction Permit applications as well as General Permit applications.

**General Permit Fee:** A one-time \$50 fee. Additional permit processing fees will not be assessed.

**Construction Permit Fee:** \$76.45/hour. Once an APEN is received, all processing time will be charged regardless of whether a permit is issued (unless the project has been determined to be exempt from APEN requirements). If a project is cancelled, notify the Division in writing immediately. All time spent up to the receipt of the cancellation request will be billed to the applicant at the above listed rate.

## ➤ **PERMIT CANCELLATION**

The construction permit, or coverage under the general permit, can be cancelled at any time by request submitted, in writing, from the company that owns the permit (ie: the company who's name appears on the permit document or the general permit coverage letter).

However, as land development permits have expiration dates and there are no annual emission fees charged, the cancellation of these permits is not necessary.

## ➤ **Small Business Assistance Program**

The Small Business Assistance Program (SBAP) is available to answer questions you may have regarding environmental issues at your site. If you have questions, please contact our program at (303) 692-3175 or 3148.

